

INDEPENDENT REVIEW PANEL
STAFF RECOMMENDATION TO THE PANEL

July 24, 2003

Complaint: A2002.008

Complainant: Lee Joe Cooper

Accused Party: Miami-Dade Police Department (MDPD), Officer Jorge Espinosa

Date Complaint Received: January 7, 2002

Materials Reviewed: Grievance Report Form, correspondence, departmental response, staff notes

Complaint: Mr. Cooper was sitting in the passenger seat of a vehicle parked behind Eureka Park about midnight on January 6, 2002. Blonnie Colon was in the driver's seat. An officer approached and asked both parties for identification. Mr. Cooper stated the officer told him to stand at the rear of the car while the officer searched the vehicle. After Officer Rodriguez searched the vehicle, he grabbed Mr. Cooper by the back of his pants and threw him to the ground. Other officers handcuffed him. Mr. Cooper stated that one officer then struck him and two others kicked him. The officers then dragged him by his legs to the police vehicle.

Mr. Cooper stated the officers poured something cold over him to clean him up before Fire Rescue arrived. He believes he blacked out because the next thing he remembers is being taped to a board at Jackson Memorial Hospital South. Mr. Cooper alleges that while at the hospital, an officer told him to sit "fucking still," refused to give him his clothes and refused to allow the nurse to push him in a wheelchair or give him a blanket. Officer Espinosa transported him, in a hospital gown, to Ward D.

Mr. Cooper stated that, as a result of the beating by the police officers, he suffered broken ribs, jaw and broken arteries in his eye which required surgery.

Departmental Response MDPD Investigative Report IA 2002-0078: MDPD investigated the allegations that:

1. An unknown white male officer struck Mr. Cooper on the right side of the face without cause.
2. Unknown white male officers kicked him while he was on the ground handcuffed without cause.
3. Unknown officers rinsed the blood off him, before Fire Rescue personnel treated him, without cause.

4. Officer Jorge Espinosa interfered with medical personnel at Jackson Memorial Hospital South, was discourteous when he told Mr. Cooper to sit "fucking still," and not allowing the nurse to provide Mr. Cooper with an extra blanket when he was cold.
5. Officer Jorge Espinosa failed to return the clothes he was wearing at the time of the arrest without cause.

MDPD Disposition Panel Findings

Allegation #1 - Not Sustained

...The complainant was directed to the ground because he was attempting to escape from [the officers'] custody. In order to avoid being arrested, the complainant was "violently flailing" his arms and kicking his feet. During the struggle, Officer Rogers observed the complainant strike Sergeant Sherman on the face with a closed fist. The complainant also attempted to strike Officer Rogers. While the complainant continued attempting to punch and kick the officers, Officer Rogers struck him twice on the face with a closed fist. He did this in an attempt to control his actions and protect himself.

Sergeant Sherman advised that he ... struck the complainant... on his side and back in an attempt to gain compliance. In the process of taking the complainant into custody, Sergeant Sherman suffered a laceration to his nose and had his eyeglasses broken. Officer Rogers was treated for a laceration to his nose and Officer Rodriguez experienced a bruised right leg...

The complainant's allegations were documented in a letter and sent to the Professional Compliance Bureau (PCB) via the Independent Review Panel. The complainant declined to be interviewed by the PCB investigator. As a result, the investigator was unable to verify the contents of the letter or identification of the officers... Since the complainant refused to sign a Medical Release Form the investigator was unable to determine if the complainant's injuries were obtained as a result of the officer's actions...

Allegation #2 - Not Sustained

Officers Rodriguez and Rogers, and Sergeant Sherman deny kicking the complainant while he was on the ground handcuffed. There are no independent witnesses who observed the allegation.

Allegation #3 - Not Sustained

Sergeant Sherman admits pouring peroxide on the complainant's face to determine the source and extent of his injuries. This process determined that the complainant was bleeding from his nose and [he] had some small cuts inside his mouth...

Training Bureau Officer John Delgado stated that the use of peroxide is an acceptable method of determining the source and extent of an individual's injury. Although Sergeant Sherman stated that the peroxide was utilized to treat the complainant's injuries, it cannot be determined whether he really had ulterior motives for the peroxide's use.

Allegation #4 – Sustained

Officer Espinosa denies interfering with medical personnel who were treating the complainant...

Jackson Memorial Hospital-South (JMH-S) Nurse Michelle Ross stated that... Officer Espinosa attempted to stop her from making the complainant feel comfortable. Officer Espinosa told Ms. Ross to not give the complainant a blanket when he was cold, and that he did not need any pain medication. After Ms. Ross advised Officer Espinosa that the complainant had to be transported to Ward-D, she offered to escort the complainant to the police vehicle in a wheelchair. Officer Espinosa stated that the complainant could walk.

Ms. Ross also heard Officer Espinosa advise the complainant that he better not bleed in his police vehicle. Officer Espinosa does acknowledge telling the complainant to not bleed in his police vehicle. Specifically, he told the complainant, "Make sure the blanket is on the seat, I just got a brand new car and I know it takes hours to clean it. I said, sit in there, and don't move around, and don't get the blood around. I told him, do not get any blood on my car, just like that, verbal command, not to put any blood on my car."

JMH-S Nurse Paula Mangler stated that Officer Espinosa was very unprofessional, not wanting the nurses to be pleasant to the complainant or provide him with any amenities... After Nurse Mangler asked Officer Espinosa to "cool his jets," he began to yell at her, and an argument ensued. Officer Espinosa acknowledged that he had a dispute with Ms. Mangler...

Allegation #5 - Not Sustained

Officer Espinosa advised that he was not aware of what happened to the complainant's clothing... There are no other officers involved with this case that were aware of where the complainant's clothing was located... All of the involved JMH-S nurses stated they were not aware of where the complainant's clothing was "stored."

Statements of JMH South Staff

Nurse Michelle Ross: Officer Espinosa attempted to stop any effort she made to make Mr. Cooper comfortable, including giving him a blanket and escorting Mr. Cooper to the police car in a wheelchair. Officer Espinosa also told her Mr. Cooper did not need pain medication. Ms. Ross did not have information about Mr. Cooper's clothing and she did not hear Officer Rodriguez use profanity toward Mr. Cooper.

Nurse Kathleen Long: Ms. Long was the charge nurse at JHM-S. Ms. Ross advised her she was having a problem with the police officer that was with Mr. Cooper. Ms. Ross told her Mr. Cooper moaned when he moved; the officer "directed him down toward the bed," and told her Mr. Cooper did not need pain medication. Ms. Long did not hear the officer use profanity, but she did hear the officer tell Mr. Cooper to "shut up."

Nurse Paula Mangler: Officer Espinosa acted very unprofessional, did not want the nurses to be pleasant or provide any amenities to Mr. Cooper. Officer Espinosa told the nurses not to give Mr. Cooper a blanket “because he did not deserve it.” When Ms. Mangler told the officer to “cool his jets,” Officer Espinosa yelled and argued with her. She described Officer Espinosa’s behavior toward Mr. Cooper as “demeaning.” She had no knowledge about Mr. Cooper’s clothes.

Homer Cassada, MD: Dr. Cassada stated that the officer guarding Mr. Cooper did not interfere with Mr. Cooper’s treatment. There was a confrontation between Nurse Ross and the officer, stemming from a disagreement on how Mr. Cooper sustained his injuries.

Officers Marcos Rodriguez and Joshua Rogers made the initial contact with Mr. Cooper. Sergeant Edward Sherman arrived as the officers were pulling Mr. Cooper from the vehicle. Officer Rodriguez was the first officer who monitored Mr. Cooper at Jackson Memorial Hospital-South (JMH-S). He was replaced by Officer Jorge Espinosa who transported Mr. Cooper to Ward D.

Statement of Officer Jorge Espinosa

Officer Espinosa was sent to JMH-S to relieve Officer Rodriguez. Two nurses were “cop bashing,” and one accused him of mistreating Mr. Cooper. Officer Espinosa and the nurse got into an altercation. Officer Espinosa denied interfering with medical personnel or telling nurses not to give Mr. Cooper a blanket. Mr. Cooper had blood on his arms, legs and the hospital blanket when Officer Espinosa transported him to Ward D. Officer Espinosa told Mr. Cooper not to get any blood on his vehicle.

Officer Espinosa has no prior sustained complaints.

Statement of Officer Marcos Rodriguez

He and Officer Joshua Rogers approached the parked vehicle to determine whether or not there was criminal activity involved. Mr. Cooper refused to exit the vehicle and placed his hands under the seat. Fearing Mr. Cooper was searching for a weapon, the officers pulled him from the vehicle. Mr. Cooper pulled four baggies of suspect cocaine from his pocket and threw them on the ground. Mr. Cooper tried to escape and the officers forced him to the ground to control him. There was a struggle in which Sgt. Sherman suffered an injury to his nose, Officer Rogers suffered a cut to his forehead, Officer Rodriguez suffered a bruise on his thigh and Mr. Cooper sustained scratches on his face. Officer Rogers or Sgt. Sherman poured water on Mr. Cooper to determine the source of the blood. Fire Rescue transported Mr. Cooper to JMH-S. Officer Rodriguez denied striking, kicking or dragging Mr. Cooper, or interfering with medical personnel at JMH-S. He did not know what happened to Mr. Cooper’s clothes.

Officer Rodriguez has six prior sustained complaints, two in 1991, one in 1992 and 3 in 2000:

Departmental misconduct – 4 Unauthorized use of force (injury) – 1
Discourtesy -1

Statement of Officer Joshua Rogers

He and Officer Rodriguez pulled Mr. Cooper from the parked vehicle because Mr. Cooper refused to remove his hand from under the seat. Mr. Cooper threw four baggies containing narcotics to the ground and then attempted to run. Mr. Cooper, Officer Rogers and Officer Rodriguez ended up on the ground. Sgt. Sherman joined the officers in their attempt to handcuff Mr. Cooper. Mr. Cooper punched and kicked the officers. Officer Rogers struck Mr. Cooper twice on the face to control him. Officer Rogers transported Blonnie Colon to the Hammocks Station.

Officer Rogers has no prior sustained complaints.

Statement of Sergeant Edward Sherman

When he arrived on the scene, he observed that Officers Rodriguez and Rogers had Mr. Cooper stand by the parked vehicle and they were requesting that he put his hands on the top of the vehicle. Mr. Cooper did not comply and placed his hands in his jacket pockets. Mr. Cooper threw something to the ground and then pushed Officer Rogers. The three officers converged on Mr. Cooper and forced him to the ground. Mr. Cooper struggled, kicking and punching the officers. Sgt. Sherman struck Mr. Cooper on the side and the back in an attempt to gain compliance. After the confrontation, Sgt. Sherman poured peroxide on Mr. Cooper's face to determine the source of Mr. Cooper's injuries. Sgt. Sherman believes Fire Rescue personnel or someone at JMH south may have cut Mr. Cooper's clothing off him.

Sgt. Sherman has four prior sustained complaints in 1989, all for departmental misconduct.

Staff Remarks: Mr. Cooper was charged with Battery on a law enforcement officer, Resisting arrest w/ violence, Resisting arrest w/o violence, Possession of Cocaine. Panel staff was unable to determine the disposition of the charges.

The MDPD investigative report was sent to Mr. Cooper on March 14, 2003. On April 2, 2003, Panel staff person Carol Boersma spoke to Mr. Cooper, who advised he had received the report and he wanted to talk to his lawyer before deciding whether to pursue his complaint. Subsequent to that, Ms. Boersma attempted to contact Mr. Cooper by phone and letter. He was unresponsive.

Staff Findings: Staff found the MDPD investigation appropriate and well done.

Staff Recommendation: Staff recommends that the Panel concur with the MDPD Disposition Panel findings.

DISPOSITION OF THE INDEPENDENT REVIEW PANEL

Complainant: Lee Joe Cooper

Date: July 31, 2003

IRP Case: A2002.008

From: Eduardo I. Diaz, Ph.D.
Executive Director

The Independent Review Panel met on July 24, 2003 for the purpose of publicly reviewing the complaint made by Lee Joe Cooper against the Miami-Dade Police Department and the department's response to that complaint. The following represents the findings of the Panel:

A. Allegations

1. An unknown white male officer struck Mr. Cooper on the right side of the face without cause.
2. Unknown white male officers kicked him while he was on the ground handcuffed without cause.
3. Unknown officers rinsed the blood off him, before Fire Rescue personnel treated him, without cause.
4. Officer Jorge Espinosa interfered with medical personnel at Jackson Memorial Hospital South, was discourteous when he told Mr. Cooper to sit "fucking still," and not allowing the nurse to provide Mr. Cooper with an extra blanket when he was cold.
5. Officer Jorge Espinosa failed to return the clothes he was wearing at the time of the arrest without cause.

B. Disposition of the Independent Review Panel

Allegation #1 - Not Sustained

According to the involved officers, the complainant was directed to the ground because he was attempting to escape. In order to avoid being arrested, the complainant punched and kicked, striking Sergeant Sherman in the face. Officer Rogers struck Mr. Cooper twice on the face with a closed fist in an attempt to control his actions and protect himself. Sergeant Sherman advised that he struck the complainant on his side and back in an attempt to gain compliance.

In the process of taking the complainant into custody, Sergeant Sherman suffered a laceration to his nose and had his eyeglasses broken. Officer Rogers was treated for a laceration to his nose and Officer Rodriguez experienced a bruised right leg.

Since the complainant refused to sign a Medical Release Form, the investigator was unable to determine if the complainant's injuries were obtained as a result of the officers' actions.

Allegation #2 - Not Sustained

Officers Rodriguez and Rogers, and Sergeant Sherman deny kicking the complainant while he was on the ground handcuffed. There are no independent witnesses who observed the allegation.

Allegation #3 - Not Sustained

Sergeant Sherman admits pouring peroxide on the complainant's face to determine the source and extent of his injuries. This process determined that the complainant was bleeding from his nose and had some small cuts inside his mouth. Training Bureau Officer John Delgado stated that the use of peroxide is an acceptable method of determining the source and extent of an individual's injury.

Allegation #4 – Sustained

Although Officer Espinosa denied interfering with medical personnel who were treating the complainant, Jackson Memorial Hospital-South (JMH-S) Nurse Michelle Ross stated that Officer Espinosa attempted to stop her from making the complainant feel comfortable. Officer Espinosa told Ms. Ross to not give the complainant a blanket when he was cold, and that he did not need any pain medication.

Ms. Ross also heard Officer Espinosa advise the complainant that he better not bleed in his police vehicle. Officer Espinosa does acknowledge telling the complainant to not bleed in his police vehicle. Specifically, he told the complainant, "Make sure the blanket is on the seat, I just got a brand new car and I know it takes hours to clean it. I said, sit in there, and don't move around, and don't get the blood around. I told him, do not get any blood on my car, just like that, verbal command, not to put any blood on my car."

JMH-S Nurse Paula Mangler stated that Officer Espinosa was very unprofessional, not wanting the nurses to be pleasant to the complainant or provide him with any amenities. After Nurse Mangler asked Officer Espinosa to "cool his jets," he began to yell at her, and an argument ensued. Officer Espinosa acknowledged that he had a dispute with Ms. Mangler.

Allegation #5 - Not Sustained

Officer Espinosa and all of the involved JMH-S nurses advised that they were not aware of what happened to the complainant's clothing.

The Independent Review Panel concluded the complaint on July 24, 2003.